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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,036	03/31/2004	John A. Salentine	367-27-002	9301
23935 7590 08/18/2009 KOPPEL, PATRICK, HEYBL & DAWSON 2815 Townsgate Road SUITE 215 Westlake Village, CA 91361-5827				
			EXAMINER LARSON, JUSTIN MATTHEW	
			ART UNIT 3782	PAPER NUMBER
			MAIL DATE 08/18/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/816,036

**Applicant(s)**

SALENTINE ET AL.

**Examiner**

JUSTIN M. LARSON

**Art Unit**

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4,6-11,14 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,6-11,14 and 16-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/21/09 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4, 6, 8-11, 14, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tien (US 5,620,120 A) in view of Wong (US 6,546,103 B1), and further in view of Muller (US 6,904,872 B2).

Regarding claims 1 and 4, Tien discloses a system comprising a mounting apparatus (20/21) and a holstering system (11) arranged to allow an electronic personal device to be mounted thereto, wherein said holstering system comprises a substantially U-shaped elevated slot (100). Tien fails to disclose a tether housing coupled between the mounting apparatus and the holstering system, wherein the tether housing includes an extendable/retractable tether attachable to said electronic personal device, said

tether prevented from retracting past a certain point by a lanyard attachment that abuts said tether housing when said tether is fully retracted, and wherein the system includes a lanyard loop, said lanyard attachment allowing said lanyard loop to be suspended such that there is no tension between said tether housing and said personal device when mounted.

Regarding the tether housing, Wong teaches that it is desirable to provide a tether housing (10) with a tether (12) between a mounting apparatus (40/41) and a holstering system (30) so that a portable electronic device will not accidentally fall to the ground and be damaged or get lost. It would have been obvious to one having ordinary skill in the art at the time the invention was made to implement a tether housing and tether between the mounting apparatus (20/21) and holstering system (11) of Tien, as taught by Wong, so that the personal electronic device of Tien would not fall to the ground and become damaged or lost.

Regarding the lanyard attachment and lanyard loop, Muller discloses a related tethering device (Figure 5) and teaches that it is desirable to provide such a tethering device with a lanyard attachment (connection between 11 and 30) that abuts the tether housing when the tether is fully retracted and an elastic lanyard loop (30) that prevents a sudden jerk-like force on the retractable tether when it has been extended to its full capacity (col. 4 lines 25-36). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the modified Tien device with a lanyard attachment along the tether and a lanyard loop between the end of the

tether and the personal device in order to prevent a sudden jerk-like force on the tether when it has been extended to its full capacity, as taught by Muller.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over the modified Tien device which is capable of being used in the intended manner, i.e., the elevated slot receiving a pivoting ball of a personal device. There is no structure in the modified Tien device that would prohibit such functional intended use (see MPEP 2111).

Regarding claim 6, a leg (13) of the U-shaped elevated slot of the modified Tien device comprises a hinge (18/140) that acts in securing a personal device in the slot.

Regarding claims 8 and 9, the tether of the modified Tien device can be considered to extend through either a top or front surface of the housing, depending on how the housing is viewed.

Regarding claim 10, the modified Tien device includes a mounting clip (21).

Regarding claims 11, 14, 16, and 18, the modified Tien system includes the claimed features except for a spring internal to said tether housing. Wong, whose tether housing was added to Tien, mentions a spool but is silent as to the existence of a spring. Muller, however, teaches that it is known for such a tether housing to include an internal spring (9) for biasing the tether into a retracted position. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have included an internal spring in the tether housing of the modified Tien system in order to bias the tether into a retracted position, as taught by Muller.

Art Unit: 3782

4. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tien in view of Wong and Muller as applied above, further in view of Campagna, Jr. (US 5,513,785 A).

The modified Tien device includes the claimed features except for a ratchet lock to hold the tether at a desired extended length. Campagna, however, teaches that it is known to provide a tether housing with a ratchet lock (68/69/70) to control the extended length of a tether. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the modified Tien device with a ratchet lock in order to control the extended length of the tether, as taught by Campagna.

#### ***Response to Arguments***

5. Applicant's arguments filed 5/21/09 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Beck discloses a tether housing that utilizes a lanyard attachment (4) and a lanyard loop (8).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUSTIN M. LARSON whose telephone number is (571)272-8649. The examiner can normally be reached on Monday-Friday, 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone

Art Unit: 3782

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Justin M Larson/  
Examiner, Art Unit 3782  
8/14/09